

**TWIN FALLS, THURSDAY, NOVEMBER 6, 2008 AT 8:50 A.M.**

**IN THE SUPREME COURT OF THE STATE OF IDAHO**

<b>DAMIAN FARRELL,</b>	)	
	)	
<b>Plaintiff-Respondent,</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>KENT WHITEMAN, in his individual</b>	)	
<b>capacity, and WHITEHORSE</b>	)	
<b>PROPERTIES, LLC, a Michigan limited</b>	)	
<b>liability company,</b>	)	
	)	
<b>Defendants-Appellants.</b>	)	
-----	)	<b>Docket No. 34383</b>
<b>KENT WHITEMAN and WHITEHORSE</b>	)	
<b>PROPERTIES, LLC, a Michigan limited</b>	)	
<b>liability company,</b>	)	
	)	
<b>Counterclaimants,</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>DAMIAN FARRELL,</b>	)	
	)	
<b>Counterdefendant.</b>	)	

Appeal from the District Court of the Fifth Judicial District of the State of Idaho,  
Blaine County. Honorable Robert J. Elgee, District Judge.

Speck & Aanestad, P.C., Ketchum, for appellants.

Edward Simon, Ketchum, for respondent.

Naylor & Hales, PC, Boise, for amicus curiae.

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Damian Farrell, a Michigan-licensed architect, and Kent Whiteman, a Michigan real estate developer, discussed a joint project to develop condominiums in Ketchum, Idaho. Farrell designed the building, secured site plan approval, and prepared construction documents as the project architect, even though the parties never reached an express agreement as to the nature of their relationship. Farrell did not obtain a license to practice architecture in Idaho until midway through the project. After construction was completed, Whiteman refused to pay Farrell for his

services. Farrell sued, and Whiteman defended on the basis that the alleged agreement was illegal and therefore unenforceable because Farrell lacked an Idaho architect's license during part of the performance.

The district court found an implied-in-fact contract, and awarded Farrell damages on the theory of quantum meruit, which allows a person to recover the value of his services. It held that Farrell was licensed at all "critical times" during the project, and therefore the contract was not illegal. Additionally, the court ordered Whiteman to reimburse Farrell for his outlays made on Whiteman's behalf during the project, and awarded Farrell attorney fees and costs. Whiteman appeals to this Court, and argues that Farrell cannot recover because he violated Idaho statutes regarding the licensing of architects.

**TWIN FALLS, THURSDAY, NOVEMBER 6, 2008 AT 10:00 A.M.**

**IN THE SUPREME COURT OF THE STATE OF IDAHO**

**BLAIR GROVER and JOANN GROVER,** )  
**husband and wife,** )

**Plaintiffs-Respondents,** )

**v.** )

**NORMA E. WADSWORTH, individually** )  
**and/or NORMA E. WADSWORTH and** )  
**JANE DOE, as personal representatives of** )  
**the ESTATE OF A. EARL WADSWORTH,** )  
**et al,** )

**Defendants-Appellants.** )

**Docket No. 34810**

Appeal from the Seventh Judicial District of the State of Idaho, Bonneville  
County. Hon. Joel E. Tingey, District Judge.

Wright, Wright & Johnson, PLLC, Idaho Falls, for appellant.

Beard, St. Clair, Gaffney, PA, Idaho Falls, for respondent.

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This dispute stems from the sale of a parcel of real property located in Idaho Falls. Blair and Joann Grover (the Grovers) purchased the land subject to a note (the Note) issued by Earl and Norma Wadsworth (the Wadsworths). The Grovers claim that the note has been paid in full and that they are the owners of the parcel. The Wadsworths claim that there was a mistake in the amount owed on the Note and that they are the owners of the parcel unless the Note is paid in full. Both parties filed motions for summary judgment and the district court granted the motion in favor of the Grovers. The Wadsworths appeal to this Court alleging error in: (1) the grant of the motion for summary judgment in favor of the Grovers; (2) the denial of their motion for summary judgment; and (3) the award of attorney's fees to the Grovers because Blair Grover is a member of the firm that represented the Grovers in the present action. Both parties claim attorney's fees on appeal.

**TWIN FALLS, THURSDAY, NOVEMBER 6, 2008 AT 11:10 A.M.**

**IN THE SUPREME COURT OF THE STATE OF IDAHO**

**RODNEY GRIFFITH and CARLA )  
GRIFFITH, husband and wife, individually )  
and dba, BOSWELL FARMS, )**

**Plaintiffs-Appellants-Cross Respondents, )**

**v. )**

**CLEAR LAKES TROUT CO., INC., an )  
Idaho corporation, )**

**Defendant-Respondent-Cross Appellants. )**

**----- )  
CLEAR LAKES TROUT CO., INC., an )  
Idaho corporation, )**

**Docket No. 34430**

**Counterclaimant-Respondent- )  
Cross Appellants, )**

**v. )**

**RODNEY GRIFFITH and CARLA )  
GRIFFITH, husband and wife, individually )  
and dba BOSWELL FARMS, )**

**Counterdefendants-Appellants-Cross )  
Respondents. )**

Appeal from the District Court of the Fifth Judicial District of the State of Idaho,  
Twin Falls County. Hon. G. Richard Bevan, District Judge.

Jeffrey J. Hepworth & Associates, Twin Falls, for appellants.

Worst, Fitzgerald & Stover, Twin Falls, for appellants.

Ringert Clark Chtd., Boise, for respondents.

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This case involves the second appeal of a commercial contract dispute between  
Appellants/Cross-Respondents Rodney and Carla Griffith, individually and d/b/a Boswell Farms

(collectively the Griffiths), and Cross-Appellant/Respondent Clear Lakes Trout Co., Inc. (Clear Lakes). In September 1998, the parties executed a six-year agreement, under which Clear Lakes was to sell the Griffiths sufficient quantities of small trout to enable the Griffiths to grow “up to two million pounds live weight” each year, which the Griffiths would then sell back to Clear Lakes once the trout grew to “market size.” However, after the September 11, 2001 attacks, Clear Lakes’ resale market declined and it began taking trout deliveries from the Griffiths much later and in smaller loads, leaving the Griffiths with overcrowded ponds and a tightened cash flow. The parties agreed to extend the terms of the contract for an additional year to 2005, but problems worsened and the contract was eventually terminated near the end of the fifth year in August 2003.

In *Griffith I*, this Court upheld the district court’s determination that Clear Lakes had breached the contract during years four and five and affirmed the court’s calculation of damages for those two years. However, this Court vacated the district court’s conclusion that damages were too speculative for years six and seven of the contract. On remand, the district court relied on the evidence presented at trial and determined that the Griffiths’ average output figure from contract years four and five was the best measure of what the Griffiths’ output would have been during years six and seven had the contract been carried out in its entirety. As such, the district court awarded the Griffiths an additional \$266,294.24 in damages.

As the prevailing party on remand, the Griffiths were entitled to attorney fees under Idaho Code § 12-120(3). Although the Griffiths had previously sought and been awarded attorney fees on an hourly basis for both the trial and the first appeal, the Griffiths switched the basis of their request on remand and sought fees pursuant to their 25% contingency fee agreement. Despite the late switch and the fact that the Griffiths’ attorneys had only spent an additional thirty-eight hours preparing for remand, the district court found that the Griffiths’ request was reasonable and awarded them \$66,573.00 in attorney fees.

On appeal, the Griffiths argue that the district court’s conclusion that the parties entered into an output contract is binding, and therefore the decline in Clear Lakes’ resale market during years four and five was irrelevant to the court’s determination of contract damages for years six and seven. Instead, the Griffiths argue that their average output figure from years two and three—the years unaffected by Clear Lakes’ breach and market decline—was the proper measure of damage for determining what their good faith output would have been during years six and seven. On cross-appeal, Clear Lakes argues that the district court’s award of attorney fees to the Griffiths on remand pursuant to the Griffith’s contingency fee agreement resulted in a double recovery and was inequitable.